



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Safety

4 (Amendment)

5 805 KAR 3:110. Employees' personal protection.

6 RELATES TO: KRS 351.070

7 STATUTORY AUTHORITY: KRS 351.070

8 NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation
9 establishes [~~is to establish~~] safety standards for [~~controlling~~] equipment used for personal
10 protection of employees in the operation of the Commonwealth's surface type coal and clay mines
11 which include strip and auger mining operations.

12 Section 1. Personal Protection. (1) Adequate first aid materials, including stretchers and
13 blankets, shall be provided at places convenient to all working areas. Water or neutralizing agents
14 shall be available where corrosive chemicals or other harmful substances are stored, handled, or
15 used.

16 (2) All persons shall wear suitable hard hats when in or around mine plants or active
17 workings of the mine.

18 (3) All persons shall wear suitable protective footwear when in or around mine plants or
19 active workings of the mine.

20 (4) All persons shall wear safety glasses, goggles, or face shields when doing work
21 hazardous to the eyes.

1 (5) Safety belts and lines shall be worn [~~when men work~~] where there is danger of falling.

2 [~~3~~] A second person shall tend the life line when bins, tanks or other dangerous areas are entered.

3 (6) Life jackets or belts shall be worn where there is danger of falling into deep water.

4 (7) Protective clothing, rubber gloves, goggles, or face shields shall be worn by a person
5 handling substances that are corrosive, toxic, or injurious to the skin.

6 (8) Protective clothing or equipment and face shields or goggles shall be worn when
7 welding, cutting or working with molten metal.

8 (9) Snug-fitting clothing shall be worn by persons working around moving equipment and
9 machinery.

10 (10) Protective gloves shall be worn by employees handling materials that [~~which~~] may
11 cause injury.

12 (11) Gloves shall not be worn where they could create a hazard by becoming entwined or
13 caught in moving parts of machinery.

14 (12) Effective hearing protection shall be worn where noise levels may cause permanent
15 ear damage or hearing loss, or noise shall be reduced to safe levels, unless the wearing of the
16 protective devices would create a greater danger to the employee.

17 (13) (a) All miners shall wear clothing with at least 100 square inches of reflective material
18 while in an underground mine and clothing with at least fifty (50) square inches of reflective
19 material while on a surface mine site.

20 (b) The reflective material shall be prominently worn and visible in all directions.

21 (14) All underground miners who are on foot and are on an active working section shall be
22 equipped with an operating, flashing personal safety light that is recognized by MSHA as

- 1 intrinsically safe. The light shall be readily visible and securely attached to the miner, at or above
- 2 the shoulders, while on the working section.

805 KAR 3:110 approved for filing.
Pages (1-3)

5/9/2019

Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2019 at 5:00 P.M. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone: (502) 782-6720, fax: (502) 564-4245, email: michael.mullins@ky.gov.

**REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT**

Administrative Regulation No.: 805 KAR 3:110
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes safety standards for equipment used for personal protection of employees in the operation of the Commonwealth's surface type coal mines, which include strip and auger mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish safety standards for personal protection equipment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing the use of explosives, electrical and mechanical equipment in the operation of open-pit or surface mines." This administrative regulation provides safety standards for personal equipment.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides details concerning safety requirements for equipment used at surface type coal and clay mines which include strip and auger mining operations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will require miners to wear 100 square inches of reflective material in underground coal mines and 50 square inches of reflective material on surface mines. The amendment also requires miners in underground mines to wear a flashing personal safety light while on foot and are on an active working section.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to require miners to wear 100 square inches of reflective material in underground coal mines and 50 square inches of reflective material on surface mines. The amendment also requires miners in underground mines to wear a flashing personal safety light while on foot and are on an active working section.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by adding to the number of personal safety equipment items miners are required to use or wear.

(d) How the amendment will assist in the effective administration of the statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing...mechanical equipment in the operation of open-pit or surface mines." This amendment will require additional safety items to be used by miners.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All surface mines and underground mines in the Commonwealth will be required to meet these requirements as indicated in the body of the administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed in question (3) above will be required to wear at least 100 square inches of reflective material in underground coal mines and 50 square inches of reflective material on surface mines. The amendment also requires miners in underground mines to wear a flashing personal safety light on foot and are on an active working section.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): In order to comply with these amendments the regulated entity would be required to comply with the reflective material requirements. Reflective tape has a cost of approximately \$.33 per square inch. The average cost of a flashing personal safety light costs \$40.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Miners complying with this administrative regulation will work in a safer environment.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the administrative body with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the administrative body with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be General Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendments to this administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities that operate a surface mine will be required to meet the same requirements and those that operate an underground mine will be required to meet the same requirements. However, underground mines will be required to wear at least 50 additional square inches of reflective material and a flashing personal safety light while on foot and are on an active working section.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 3:110

Contact Person: Michael Mullins

Contact number: (502) 782-6720

Email: michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Mine Safety.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

